IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3649 OF 2006

Shri Gajiram Lahanu Pawar ..Petitioner

Vs.

1.Shri Deepak Kisan Naik & Anr. ..Respondents

Mr.P.N.Joshi for the petitioner

CORAM : A.P.DESHPANDE, J

DATED : 14TH NOVEMBER, 2006

P.C.:

1. The respondents instituted a suit for injunction against the petitioner / defendant and in the said pending suit moved an application for appointment of Court Commissioner. The trial court in exercise of its discretion has partly allowed the application directing appointment of Court Commissioner to inspect the suit property only in respect of the allegations of digging on the suit property with a view to affixing fencing therein.

2. The learned counsel for the petitioner submits that in the fact situation of the present case, the Commissioner could not have been

appointed as the same results in collecting evidence.

3. Perused the order. The trial court has exercised discretion in accordance with law. There is no patent illegality or miscarriage of Justice requiring interference with the interlocutory order. In the result, writ petition is summarily rejected.

(SHRI A.P.DESHPANDE, J)